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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,709	10/02/2003	Gregg S. Schmidt	200300049-1	9168
22879 7590 11/05/2009 HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528				
EXAMINER				
PUROL, SARAH L				
ART UNIT		PAPER NUMBER		
3637				
NOTIFICATION DATE		DELIVERY MODE		
11/05/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/677,709

Applicant(s)

SCHMIDT ET AL.

Examiner

Sarah Puroi

Art Unit

3637

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Applicant's arguments regarding the 35 USC 112 rejection second paragraph of claims 5 and 6 has been carefully considered and applicant's arguments are persuasive. The rejection of claims 5 and 6 under 35 USC 112 is therefore and hereby withdrawn.

Applicant's arguments regarding the 35 USC 112 second paragraph rejection of claim 11 have also been carefully considered and are also found to be persuasive. The rejection of claim 11 under 35 USC 112 is therefore and hereby withdrawn.

Newly amended claim 4 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Applicant is attempting to positively claim the electronic device in combination with the rack. The originally presented invention was drawn to the rack only

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 4 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,7,10 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenberg et al. 5993099.

Greenberg et al. teach an apparatus (capable of mounting an electronic device to a rack system -the electronic device is not claimed and therefore could be something as simple as a musical greeting card or a circuit card for a computer or a compact disc-kept within a file). The frame assembly includes two rails 60 and a plurality of retractable hangers 42-48 on opposite sides of the device 10. The hangers are retractable to fit the device into the frame engaging the two rails 60. The retractable hangers are shown extended in Figure 4 and retracted in Figure 5. The device is

slidable on the plurality of hangers on at least a portion of at least two rails. Hangers 42,46 are opposite hangers 44,48 on opposite sides of device. The ramp portion of the hangers are best seen in Figure 4. Note hanger portions 58 and the ramp portion that engages the inner side of rails 60.

Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Fall et al. 6209979. Note electronic device 12, fitting within two rails 24 with channel 60, hangers 14, biasing release element 66.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1,148 USPQ 459 (1966), that are applied for establishing a background for

determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5 and 6, 8 and 9,11,12,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenberg et al. in view of Fitzburg 5967337. Fitzburg teaches a frame having posts 18-21 for supporting rails 15,16,17 which in turn support hangers 60 which support electronic devices. To provide either Fitzburg with retractable hangers as taught by Greenberg et al. for the purpose of fitting differing sized devices or to support the devices and hangers of Greenberg on a frame with posts as taught by Fitzburg would have in either case been obvious for one having ordinary skill in the art at the time of the invention. Regarding the shape of the hangers, whether they are cylindrical or triangular or any other shape in cross section is considered to be a matter of choice. The Greenberg et al. device

is rectangular in cross section; however, another shape is not seen to make any difference nor yield any unexpected or unobvious result and is considered largely a matter of choice in design. Note that Greenberg et al. shows a stop (element 76 engaging element 74). Note also that Fitzburg teaches a stop in the form of the intersection between elements 12 and 13 and elements 15,16,17.

RESPONSE TO APPLICANT'S REMARKS

As stated above, the electronic device was not positively claimed in the claims that have already had an action on the merits. Class 211 deals with racks for mounting a variety of articles, some of which are electronic devices. Applicant is attempting to change the scope of the invention by now introducing the combination of a specific electronic device in combination with a rack.

Applicant's arguments and amendments are directed towards this end and are therefore not persuasive. The claim limitations are seen to be met by the references applied. If applicant wishes to pursue the combination of a specific electronic device in combination with a rack the examiner suggests that a divisional application be filed on that subject matter.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Puroi whose telephone number is 571-272-6834. The examiner can normally be reached on Tuesday -Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai, can be reached on 571-272-6867. The

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Sarah Purol/

Primary Examiner

AU 3637